



DEPARTMENT OF LABOR

Employee Benefits Security Administration

Proposed Extension of Information Collection Request Submitted for Public Comment; Affordable Care Act Internal Claims and Appeals and External Review Procedures for Non-grandfathered Plans

AGENCY: Employee Benefits Security Administration, Department of Labor

ACTION: Notice

SUMMARY: The Department of Labor (the Department), in accordance with the Paperwork Reduction Act of 1995 (PRA 95) (44 U.S.C. 3506(c)(2)(A)), provides the general public and Federal agencies with an opportunity to comment on proposed and continuing collections of information. This helps the Department assess the impact of its information collection requirements and minimize the reporting burden on the public and helps the public understand the Department's information collection requirements and provide the requested data in the desired format. Currently, the Employee Benefits Security Administration (EBSA) is soliciting comments on the revision of the information collection provisions of its interim final rule at 29 CFR Part 2590.715-2719, Internal Claims and Appeals and External Review Processes for Non-grandfathered Plans, that was published in the Federal Register on June 24, 2011 (76 Fed. Reg. 37208). A copy of the information collection request (ICR) may be obtained by contacting the office listed in the ADDRESSES section of this notice.

DATES: Written comments must be submitted to the office shown in the Addresses section on or before [INSERT DATE THAT IS 60 DAYS FOLLOWING THE DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: Direct all written comments regarding the information collection request and burden estimates to G. Christopher Cosby, Office of Policy and Research, Employee Benefits Security Administration, U.S. Department of Labor, 200 Constitution Avenue, NW, Room N-5647, Washington, D.C. 20210. Telephone: (202) 693-8410; Fax: (202) 219-4745. These are not toll-free numbers. Comments may also be submitted electronically to the following Internet e-mail address: ebesa.opr@dol.gov.

SUPPLEMENTARY INFORMATION:

I. Background

The Patient Protection and Affordable Care Act, Public Law 111-148, (the Affordable Care Act) was enacted by President Obama on March 23, 2010. As part of the Act, Congress added Public Health Service Act (PHS Act) section 2719, which provides rules relating to internal claims and appeals and external review processes. The Department, in conjunction with the Departments of the Treasury and Department of Health and Human Services (collectively, the Departments), issued interim final regulations on July 23, 2010 (75 Fed. Reg. 43330), which set forth rules implementing PHS Act section 2719 for internal claims and appeals and external review processes. With respect to internal claims and appeals processes for group health coverage, PHS Act section 2719 and paragraph (b)(2)(i) of the interim final regulations provide that group health plans and health insurance issuers offering group health insurance coverage must comply with the internal claims and appeals processes set forth in 29 CFR 2560.503-1

(the DOL claims procedure regulation) and update such processes in accordance with standards established by the Secretary of Labor in paragraph (b)(2)(ii) of the regulations.

Also, PHS Act section 2719 and the interim final regulations provide that group health plans and issuers offering group health insurance coverage must comply either with a State external review process or a Federal review process. The regulations provide a basis for determining when plans and issuers must comply with an applicable State external review process and when they must comply with the Federal external review process.

The claims procedure regulation imposes information collection requirements as part of the reasonable procedures that an employee benefit plan must establish regarding the handling of a benefit claim. These requirements include third-party notice and disclosure requirements that the plan must satisfy by providing information to participants and beneficiaries of the plan.

On June 24, 2011, the Department amended the interim final regulations. Two amendments revised the ICR. The first amendment provides that plans no longer are required to include diagnosis and treatment codes on notices of adverse benefit determination and final internal adverse benefit determination. Instead, they must notify claimants of the opportunity to receive the codes on request and plans and issuers must provide the codes upon request. The Departments expect that this change will lower costs, because plans and issuers no longer will have to provide the codes on the notices.

Plans and issuers will incur a cost to establish procedures to receive, process, and mail the codes upon request.

The second amendment also changes the method plans and issuers must use to determine who is eligible to receive a notice in a culturally and linguistically appropriate manner, and the information that must be provided to such persons. The previous rule was based on the number of employees at a firm. The new rule is based on whether a participant or beneficiary resides in a county where ten percent or more of the population residing in the county is literate only in the same non-English language.

On December 15, 2011, the Office of Management and Budget (OMB) approved the amendments to the ICR under the emergency procedures for review and clearance in accordance with the Paperwork Reduction Act of 1995 (P.L. 104-13, 44 U.S.C. Chapter 35) and 5 C.F.R. 1320.13 under OMB Control Number 1210-0144. OMB's approval of the revision currently is schedule to expire on June 30, 2012.

II. Current Actions.

This notice requests public comment pertaining to the Department's request for extension of OMB's approval of its revision to OMB Control Number 1210-0144. After considering comments received in response to this notice, the Department intends to submit an ICR to OMB for continuing approval. No change to the existing ICR is proposed or made at this time. The Department notes that an agency may not conduct or

sponsor, and a person is not required to respond to, an information collection unless it displays a valid OMB control number. A summary of the ICR and the current burden estimates follows:

Agency: Employee Benefits Security Administration, Department of Labor.

Title: Affordable Care Act Internal Claims and Appeals and External Review Processes for Non-Grandfathered Plans.

Type of Review: Revision of a currently approved collection of information.

OMB Number: 1210-0144.

Affected Public: Individuals or households; Business or other for-profit; Not-for-profit institutions.

Respondents: 1,020,374.

Frequency of Responses: On occasion.

Responses: 111,328.

Estimated Total Burden Hours: 466

Estimated Total Burden Cost (Operating and Maintenance): \$1,257,726

III. Desired Focus of Comments

The Department is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., by permitting electronic submissions of responses.

Comments submitted in response to this notice will be summarized and/or included in the ICR for OMB approval of the extension of the information collection; they will also become a matter of public record.

Dated: February 13, 2012

Joseph S. Piacentini, Director
Office of Policy and Research
Employee Benefits Security Administration

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